

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

Criminal File No. 16-256 (MJD/LIB)

(1) CARSTIE LEE CLAUSEN,

Defendant.

Clifford B. Wardlaw, Assistant United States Attorney, Counsel for Plaintiff.

Shannon R. Elkins, Office of the Federal Defender, Counsel for Defendant .

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Leo R. Brisbois dated February 27, 2017. Defendant Carstie Lee Clausen filed objections to the Report and Recommendation.

Pursuant to statute, the Court has conducted a de novo review upon the record. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based upon that review, the Court adopts the Report and Recommendation of United States Magistrate Judge Brisbois dated February 27, 2017.

Furthermore, the Court rejects Defendant's objection that the Report and Recommendation misconstrued Defendant's argument. In Defendant's objections, he admits that he was Mirandized before entering the vehicle and before the recorded interview began. However, he argues that he was not Mirandized until after he had been pat searched, handcuffed, informed of the purpose of law enforcement's presence, was questioned, and made incriminating responses. There is no evidence in the record to support Defendant's claim. Chief Deputy Ryan Solee testified that, upon law enforcement's first encounter with Defendant, Defendant was pat searched, handcuffed, and "immediately" given his Miranda warning. (Tr. 24-25.) The record establishes that Defendant received the Miranda warning before Solee interrogated him. Defendant points to no evidence that he was questioned and made incriminating responses before he was Mirandized. The Report and Recommendation accurately recounts the facts and relevant legal analysis. Because there is no evidence to support Defendant's objection, the Court need not reach the Government's alternative argument regarding the public safety exception.

Accordingly, based upon the files, records, and proceedings herein, **IT IS**
HEREBY ORDERED:

1. The Court **ADOPTS** the Report and Recommendation of United States Magistrate Judge Leo I. Brisbois dated February 27, 2017 [Docket No. 68].
2. Defendant's Pretrial Motion to Suppress Statements, Admissions, and Answers [Docket No. 49] is **DENIED**.
3. Defendant's Pretrial Motion to Suppress Search and Seizure [Docket No. 50] is **DENIED**.

Dated: April 25, 2017

s/Michael J. Davis

Michael J. Davis

United States District Court